

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**FILED**  
AUG 24 2005  
U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO

ALVIN HOWARD,

Plaintiff,

vs.

MISSOURI BONE AND JOINT CENTER,  
INC.,

Defendant.

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**05CV01333HEA**

CASE NO.:

**JURY TRIAL DEMANDED**

**COMPLAINT**

Comes now Plaintiff, ALVIN HOWARD, by his attorneys, KNAPP, OHL & GREEN, and for his Complaint against Defendant, MISSOURI BONE AND JOINT CENTER, INC., states as follows:

1. Plaintiff, ALVIN HOWARD, is a citizen of the State of Illinois.
2. Defendant, MISSOURI BONE AND JOINT CENTER, INC., is incorporated in the State of Missouri with its principal place of business in St. Louis, Missouri.
3. Jurisdiction is proper pursuant to 28 U.S.C. § 1332.
4. On or about November 21, 2000, Plaintiff, ALVIN HOWARD, went to Defendant MISSOURI BONE AND JOINT CENTER, INC.'s Fitness and Training Center in order to begin an athletic program designed for intense high-level performance training for his football career.

5. On or about November 21, 2000, Plaintiff underwent testing by Defendant MISSOURI BONE AND JOINT CENTER, INC.'s Fitness and Training Center, by and through its agents and employees, in order to formulate a training program for Plaintiff.

6. On or about January 10, 2001, Plaintiff was training at Defendant's facility with Defendant's agents and employees.

7. On or about January 10, 2001, Plaintiff was instructed by Defendant, through its agents and employees, to squat 295 to 300 pounds during which he experienced pain in his back.

8. Plaintiff notified Defendant, through its agents and employees, of the pain in his low back resulting from the squat lifting.

9. Thereafter, Defendant, by and through its agents and employees, instructed Plaintiff to continue with the squat lifting.

10. At all times relevant hereto, Defendants had the duty to use ordinary care in designing and implementing the training and fitness program for Plaintiff.

11. Defendant, MISSOURI BONE AND JOINT CENTER, INC., by and through its agents and employees, breached this duty of care by the following negligent acts and/or omissions:

- (a) Designing a fitness and high intensity program for Plaintiff that included squatting too much weight in a short amount of training time;
- (b) Failing to warn Plaintiff of the dangers and possible injuries that could be incurred by embarking in such a fitness program;
- (c) Overestimating Plaintiff's strength and ability to lift extreme weight resulting in Plaintiff lifting too much weight when he was not fully capable to do so at that point in the training;

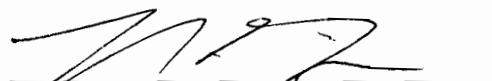
- (d) Instructing Plaintiff to squat 295 to 300 pounds on the second day of training when Plaintiff was not in a proper physical shape in order to withstand such an amount of weight;
- (e) Failing to supervise Plaintiff during his weight training program designed by Defendant;
- (f) Instructing Plaintiff to continue his workout when Defendants knew or should have known Plaintiff was at risk for sustaining an injury; and
- (g) Failing to discontinue Plaintiff's workout after being advised that Plaintiff had experienced back pain during his workout.

12. As a result of Defendants' breach of duty, Plaintiff was injured and sustained damages including, but not limited to, medical treatment for his back condition, past and present pain and suffering, as well as future pain and suffering and a loss of future earnings with regard to his ability to perform as a professional football player.

WHEREFORE, Plaintiff, ALVIN HOWARD, prays for judgment in his favor and against Defendant, MISSOURI BONE AND JOINT CENTER, INC., for damages in his favor in excess of \$75,000 and for his costs of suit.

**JURY TRIAL DEMANDED**

KNAPP, OHL & GREEN

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